

1 to be preserved until he determined this thing. That's what
2 I walked away with.

3 So I mean, I don't know. I don't know how to
4 answer you.

5 Q In your response to one of my questions
6 approximately two minutes ago you also mentioned your
7 ongoing belief that you were -- that Rainbow was entitled to
8 a full two-year construction period.

9 Do you recall that, when you mentioned that?

10 A I recall that very clearly since 1988, yes.

11 Q Now, in 1988, Mr. Oppenheimer, the Commission
12 staff attorney, I believe, advised Rainbow that it would be
13 entitled to extensions in six month increments.

14 Wasn't that your testimony this morning?

15 A What I recall about that incident, sir, is that
16 the permit having been issued in 1986, spring of 1986, in
17 the spring of 1988 we had written communication from the
18 Commission saying that the permit was being vacated or
19 yanked or canceled, and I don't know what the language is.
20 I think its canceled, the language, because of lack of
21 construction.

22 I recall discussing with counsel, Margot Polivy,
23 this incident, and she said not to worry, you know, somehow
24 they got confused. They don't realize the comparative
25 proceeding is still in the Court of Appeals here in

1 Washington. We will just write them back, point it out to
2 them, and we will get it reinstated, and don't worry about
3 it.

4 So it was done. Whatever papers had to be filed,
5 petition for reconsideration, et cetera, were done. The
6 permit was reinstated, and at the time I recall specifically
7 discussing what about this two years, you know. This clock,
8 the two-year clock should not have started in '86 was the
9 argument. The two-year clock should have begun whenever the
10 proceeding ended, whether it ended in the Court of Appeals
11 or the Supreme Court, as it did, it should have begun at the
12 time that it ended.

13 Mr. Oppenheimer, as I recall as it relayed the
14 conversation from Margot, you know, said no, we cannot do it
15 this way and I don't know why, you know. You will get your
16 two years but it will have to be done through six month
17 extensions, and just put them in and they will be granted
18 right away. And so they were. Within weeks of filing for
19 an extension, the first one in '88, all the way through
20 before your client started objecting and creating all of
21 this, they were all granted like this.

22 I was blown away that the one filed in '91 -- June
23 of -- took two years, and then it got yanked.

24 Yes, my understanding was that we had two years to
25 build from August 30th of 1990.

1 Q Did Mr. Oppenheimer tell you that?

2 A No, sir, I just said Ms. Polivy told me that. She
3 relayed the conversation from Mr. Oppenheimer.

4 Q Well, Mr. Oppenheimer didn't tell her that, did
5 he?

6 MS. POLIVY: Excuse me. The witness has just
7 testified that he was told that I did.

8 MR. COLE: Well, as I understand the conversation,
9 let me ask you this.

10 BY MR. COLE:

11 Q Isn't it the case that Mr. Oppenheimer said that
12 he would not be granting the two-year extension, that you
13 had to apply in six month --

14 A The mechanism was extensions, but we would get our
15 two years. And I still don't understand to this day why the
16 clock, so to speak, could not have been stopped and started
17 again. I do recall also that on or about August 30th of
18 1990 we asked the Commission in some sort of filing, or
19 pleading, as you enlightened me during our deposition last
20 month, that we should get our two month -- I mean, our two
21 years. And instead we got extensions. And I don't
22 understand why to this day.

23 The Commission in 1994 finally agreed that we
24 should have had our two years after the fact. The station
25 is already built and ready to go on the air.

1 Q In fact, in your -- in Rainbow's third and fourth
2 extension applications, isn't it true that Rainbow
3 specifically requested two-year extensions?

4 Do you recall that?

5 A I recall making the argument of two years from
6 final grant, Mr. Cole. I mean, I don't recall specific what
7 they say. Show them to me and it may refresh my memory.

8 MR. COLE: Your Honor, I am providing the witness
9 two documents. Well, let me do them one at a time. One
10 document which is three pages in length bearing an
11 unpaginated and unnumbered cover sheet entitled "Application
12 of Rainbow Broadcasting Company Extension for Construction
13 Permit of WRBW(TV), Orlando, Florida," File No. BPCP
14 891117KB.

15 I request that that be marked for identification
16 as Press Exhibit 11.

17 JUDGE CHACHKIN: That will be so marked.

18 (The document referred to was
19 marked for identification as
20 Press Exhibit No. 11.)

21 MR. COLE: And I would also like to provide to
22 Your Honor, the witness, counsel and the reporter copies of
23 a second document, also three pages in length, including an
24 unnumbered, unpaginated cover page entitled "Application of
25 Rainbow Broadcasting Company for Extension of Construction

1 Permit for Station WRBW(TV), Orlando, Florida," File No.
2 BPCP 900702KK.

3 I request that that be marked for identification
4 as Press Exhibit No. 12.

5 JUDGE CHACHKIN: That will be so marked.

6 MR. COLE: Thank you, Your Honor.

7 (The document referred to was
8 marked for identification as
9 Press Exhibit No. 12.)

10 BY MR. COLE:

11 Q Mr. Rey, let's look at No. 11 first.

12 Do you recognize this document?

13 A I'm sorry, I didn't mark them.

14 Eleven being?

15 Q The November 1989 application.

16 A Okay.

17 Q Is that your signature on the --

18 A Yes, it is, sir.

19 Q And do you recall signing this application?

20 A Yes, I did.

21 Q Let me refer you to page 3, which is actually page
22 2 of the internal exhibit, the application, the final page
23 of the exhibit. And refer your attention to the final
24 paragraph.

25 Do you see that?

1 A Yes.

2 Q "In view of the continuing appellate challenge to
3 the grant of Rainbow's application, Rainbow request that it
4 be granted the normal period for construction, 24 months
5 construction after final grant."

6 Do you see that language?

7 A Yes.

8 Q Am I correct that that reflects your continuing
9 belief that Rainbow was entitled to two years -- a two-year
10 extension rather than six month extensions?

11 A No, sir.

12 I am saying that Rainbow was entitled to a two-
13 year construction period after final grant, and I think
14 that's what this says right here.

15 We are asking for six months on this form, and I
16 think we are trying to preserve the argument, if you will,
17 and I am not an attorney so I might be stepping out using
18 terminology that I have seen in L.A. Law, but I think we are
19 trying to preserve the argument that Rainbow should be
20 entitled to 24 months of construction after final grant.

21 Q Where does it say in this application that you are
22 requesting six months?

23 MS. POLIVY: Your Honor, I am not sure where this
24 is going. I mean, the document speaks for itself. We won't
25 object if they want to put it in evidence.

1 MR. COLE: Fine. I will withdraw my question on
2 that basis and --

3 MS. POLIVY: I mean, I thought before that we had
4 stipulated to something so you didn't have to put in all
5 this paper, but I won't object.

6 BY MR. COLE:

7 Q Mr. Rey, let me refer you to Press Exhibit No. 12,
8 page 3, which appears to adopt that language in the final
9 paragraph, and ask you if this also reflects Rainbow's
10 ongoing interest in obtaining a 24-month extension of its
11 construction permit?

12 A Again, the same answer. I think this goes to
13 preserving the argument that Rainbow is entitled to two
14 years construction after final grant, sir.

15 MR. COLE: Your Honor, let me at this time offer
16 into evidence the documents which have been identified on
17 the record as Press Broadcasting No. 11 based on Mr. Rey's
18 testimony.

19 MR. EISEN: I object.

20 JUDGE CHACHKIN: I understood there wasn't any
21 objection.

22 MR. EISEN: No, that was --

23 MS. POLIVY: He asked the question.

24 JUDGE CHACHKIN: Are you offering 11 and 12?

25 MR. COLE: Eleven and 12. I'm offering both.

1 MR. EISEN: Well, at least to the extent that he's
2 offering 12, I will object because we didn't cover that.

3 JUDGE CHACHKIN: Yes, we did. We did cover it.
4 The language was the same, that there was a request for 24
5 months --

6 MR. EISEN: But what is the relevance?

7 JUDGE CHACHKIN: That's another question.

8 JUDGE CHACHKIN: What is the relevance?

9 MR. COLE: Your Honor, the relevance as far as I
10 can tell Mr. Rey has testified several times, both on direct
11 and not necessarily in response to any particular cross-
12 examination, to his ongoing desire to have a 24-month
13 extension period. And I think it's relevant that Rainbow
14 was told no fewer, or Rainbow sought, at least from the
15 document I can see, on at least three different occasions
16 24-month extensions which were never granted. They were
17 only granted six months.

18 MS. POLIVY: Your Honor, that is, first of all, a
19 misstatement of what the witness said. It is a misstatement
20 of what Rainbow sought. And what the witness said was that
21 he understood they had to put them in every six months, but
22 that they would be given 24 months to construct. That is a
23 very different thing from what Mr. Cole was trying to twist
24 this into being.

25 These aren't relevant to anything that is at issue

1 in this proceeding.

2 JUDGE CHACHKIN: How is this relevant to the
3 issues in this proceeding?

4 MR. COLE: Well, Your Honor, I think it goes to,
5 in my view it establishes or reflects a pattern on behalf of
6 Rainbow where they appear to be advised by Commission staff
7 as to what the rules are, and they ignored that, and adopted
8 their own view. Where they are given indications of what
9 the rules are, they ignored that and proceeded on their own.
10 And here again they were advised by Mr. Oppenheimer that
11 they will get them in six-month increments, and they seem to
12 ask for two-year increments repeatedly.

13 MR. EISEN: We object to the relevance.

14 JUDGE CHACHKIN: Sustained. Press Exhibits 11 and
15 12 are rejected as not relevant.

16 (The documents referred to,
17 having been previously marked
18 for identification as Press
19 Exhibit Nos. 11 and 12, were
20 rejected.)

21 MR. COLE: Your Honor, I am about to a stopping
22 point, if you want to take a lunch break now and come back a
23 little bit early for --

24 JUDGE CHACHKIN: We can do that. We could do
25 that.

1 MR. SILBERMAN: Excuse me, Your Honor, have 9 and
2 10 been offered?

3 JUDGE CHACHKIN: Nine and 10 have not been
4 offered.

5 MS. POLIVY: Which one is 9 and which one is 10.

6 MR. SILBERMAN: Nine is the complaint and 10 are
7 excerpts of --

8 MR. COLE: Your Honor, before we break for lunch I
9 would like to offer into evidence Press Exhibits 9, which is
10 the Rey v Gannett complaint.

11 JUDGE CHACHKIN: Any objection.

12 MS. POLIVY: No objection.

13 JUDGE CHACHKIN: Press Exhibit 9 is received.

14 (The document referred to,
15 having been previously marked
16 for identification as Press
17 Exhibit No. 9, was received in
18 evidence.)

19 MR. COLE: Thank you, Your Honor.

20 And I would also offer into evidence at this time
21 Press Exhibit 10, which is the excerpts from Mr. Rey's
22 testimony in Miami to which he testified about this morning.

23 MR. EISEN: Are all the pages of that exhibit
24 being offered?

25 MR. COLE: No, I will restrict my offer to those

1 to which I have examined him this morning.

2 MS. POLIVY: Your Honor, I am going to use them on
3 redirect. I would just as soon we have it all.

4 JUDGE CHACHKIN: Fine. Well, if you want to refer
5 to other parts, you can. But at this point I will receive
6 Press Exhibit 10 to the extent to which it has been offered.

7 MR. COLE: Thank you, Your Honor.

8 (The document referred to,
9 having been previously marked
10 for identification as Press
11 Exhibit No. 10, was received
12 in evidence but limited to
13 pages testified about in
14 cross-examination.)

15 JUDGE CHACHKIN: All right, we can take a recess
16 at this time until -- will be finish with Mr. Rey today? I
17 expect we will.

18 MR. SILBERMAN: I think we will.

19 MR. EISEN: Can we start at 1:00, Your Honor?

20 JUDGE CHACHKIN: Yes.

21 MR. COLE: Do you want to start at one or start at
22 a quarter to one?

23 MR. EISEN: We can start at one.

24 JUDGE CHACHKIN: We will start at one.

25 We will recess until 1:00.

1 (Whereupon, at 11:46 a.m., the hearing was
2 recessed, to resume at 1:00 p.m., this same day, Thursday,
3 June 27, 1996.)
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A F T E R N O O N S E S S I O N

(1:02 p.m.)

JUDGE CHACHKIN: Back on the record.

Mr. Cole.

MR. COLE: Thank you, Your Honor.

Whereupon,

JOSEPH REY

having been previously duly sworn, was recalled as
a witness herein, and was examined and testified further as
follows:

CROSS-EXAMINATION (Resumed)

BY MR. COLE:

Q Mr. Rey.

A Yes.

Q I have just a couple of follow-up questions from
this morning.

You testified that Mr. Conant, in the agreement
that you and he reached some time in 1984, required personal
guarantees of you and Leticia Jaramillo; is that correct?

A That's correct.

Q Did he ask for your mother's guarantee as well?

A No, he did not.

Q Do you know why?

A No, I do not.

Q Mr. Rey, you were aware, were you not, that in

1 February of 1991 Press Broadcasting filed an opposition to
2 Rainbow's fifth extension request?

3 Are you aware of that?

4 A Yes.

5 Q And were you aware of that in or about February of
6 1991?

7 A Yes.

8 Q And were you aware that one of the questions that
9 was raised in Press's petition for reconsideration was the
10 question as to whether or not Rainbow had in fact been
11 precluded from constructing the station by circumstances
12 beyond its control?

13 A I don't recall the specifics of the argument that
14 Press advanced.

15 MR. COLE: Your Honor, I would like to present the
16 witness with a copy of Press's petition for reconsideration,
17 and ask him to review to see if that refreshes his
18 recollection, and just one moment, please.

19 And I would point out as Ms. Farhat distributes
20 this that it is a document which is 34 pages in length, with
21 an unpaginated, unnumbered cover page entitled "Petition For
22 Reconsideration," filed with the Commission by Press
23 Television Corporation on February 25, 1991.

24 Consistent with Ms. Polivy's observation the other
25 day this is a complete copy which includes the petition for

1 reconsideration and the attachments. Oh, I'm sorry, the
2 appendix. And it also bears a received stamp from the FCC's
3 secretary's office reflecting its submission on February 25,
4 1991, and that is on page 1 of the document.

5 I would request that this be marked for
6 identification as Press Exhibit 13?

7 JUDGE CHACHKIN: The document described will be so
8 marked.

9 (The document referred to was
10 marked for identification as
11 Press Exhibit No. 13.)

12 MR. COLE: Thank you, Your Honor.

13 BY MR. COLE:

14 Q Mr. Rey, will you take a minute and review this
15 document, and particularly pages 15 through 20 of the
16 exhibit? It consists of a section of argument entitled
17 "Rainbow has failed to make any of the showings required of
18 an applicant for extension of a construction permit."

19 And my question to you does this refresh your
20 recollection?

21 A No, I --

22 MS. POLIVY: I do not know where we are going,
23 what the relevance of this is.

24 JUDGE CHACHKIN: Well, all he is asking at this
25 point is to refresh his recollection. That's where we are

1 right now. I will permit that question.

2 THE WITNESS: No, it does not, Mr. Cole.

3 I am aware that there was such a document filed.
4 I don't have any recollection of the specifics in the
5 document.

6 BY MR. COLE:

7 Q Let me refer you, Mr. Rey, to Joint Exhibit No. 8,
8 which is the letter to Ms. Polivy and myself from Ms.
9 Kreisman dated June 19, 1993. And ask you to refer to, in
10 particular, page 3 of that, starting with the first full
11 paragraph, "Press argues that the dispute with Gannett did
12 not prevent Rainbow from constructing."

13 A How far down would you like me to read?

14 Q The rest of the page.

15 MS. POLIVY: Take your time and read the whole
16 thing.

17 MR. COLE: Or you can read the whole thing if you
18 would like to, whatever you believe is necessary to
19 familiarize yourself with the document.

20 (Witness reads document.)

21 THE WITNESS: Okay.

22 BY MR. COLE:

23 Q Does that refresh your recollection as to whether
24 Press raised the question as to the legitimacy of the
25 justification for an extension as presented by Rainbow in

1 its fifth extension request?

2 MS. POLIVY: I am going to object to the question
3 because it is not relevant. If Press in a --

4 JUDGE CHACHKIN: Overruled.

5 You can answer the question if it refreshes your
6 recollection.

7 THE WITNESS: I still have no specific
8 recollection of your client's informal objection, Mr. Cole.
9 I mean, this is something for the lawyers to deal with. I
10 mean, I received these things. I browse at them, and I file
11 them. This one doesn't -- I am aware that it was filed at
12 the time it was filed or closely thereafter when I received
13 a copy from my counsel, but I don't have any specific
14 recollection of what is contained therein.

15 BY MR. COLE:

16 Q But is it safe to assume that you are in fact
17 familiar with the Kreisman letter?

18 A The Kreisman letter, I did receive.

19 I'm sorry. I lost my place. Number?

20 MS. POLIVY: Eight.

21 MR. COLE: Number 8.

22 THE WITNESS: And I read it at the time. I didn't
23 agree with what's contained in the letter, but, yeah, I'm
24 familiar with it.

25 BY MR. COLE:

1 Q And let me refer you on page 3 of the Kreisman
2 letter to the second full paragraph, last sentence, which
3 reads, "Based on the information before us, we find that the
4 permittee's lack of progress is not due to circumstances
5 beyond his control, and that Rainbow has therefore failed to
6 meet the requirements for obtaining an extension of time."

7 Did you read that?

8 A Yes, sir.

9 Q Now, let me refer you to Rainbow Exhibit No. 8
10 which is Rainbow's petition for reconsideration and
11 reinstatement, and grant of application for assignment of
12 construction. It was filed by Rainbow Broadcasting Company
13 on July 2, 1993, and which sought --

14 MR. SILBERMAN: What exhibit number is this?

15 MR. COLE: Eight, Rainbow Exhibit 8.

16 And I believe counsel stipulated that as reflected
17 in the first sentence of this document that it was addressed
18 to Ms. Kreisman's letter which is Joint Exhibit 8.

19 MS. POLIVY: If you will give me a moment to
20 locate it.

21 MR. EISEN: I don't have it here.

22 MR. COLE: I have an extra copy if you would like.

23 (Pause.)

24 MS. POLIVY: We will stipulate it was addressed to
25 the reconsideration of the Kreisman letter?

1 JUDGE CHACHKIN: Yes, that's correct.

2 JUDGE CHACHKIN: What is your question, Mr. Cole?

3 BY MR. COLE:

4 Q Have you had a chance to review this?

5 A I don't have the document still.

6 JUDGE CHACHKIN: Now, what do you want him to do?

7 What is the document?

8 (Pause.)

9 BY MR. COLE:

10 Q Do you have the document now, sir?

11 A Yes.

12 Q Could you turn to page 13, please? It's a one-
13 page statement of Joseph Rey, entitled "Statement of Joseph
14 Rey."

15 Is that your signature on that page?

16 A Yes, it is.

17 Q Can you tell me, Mr. Rey whether there is any
18 reference in this petition for reconsideration to any order
19 by Judge Marcus which prevented Rainbow from constructing
20 its station from the period November 1990 to June 6 of 1991?

21 A I don't know. I would have to read the whole
22 thing.

23 Q Please take your time and read the whole thing.

24 MR. COLE: Unless counsel is willing to stipulate
25 there is no such reference, I would be happy not to have the

1 witness read it.

2 MS. POLIVY: No, I don't know.

3 JUDGE CHACHKIN: We will go off the record.

4 (Pause off the record.)

5 JUDGE CHACHKIN: Ms. Polivy.

6 MS. POLIVY: We are prepared to stipulate that the
7 discussion of the tower litigation and its effect is
8 contained in the petition for reconsideration on page 6,
9 page 7, and this is already in the record as far as I know,
10 that it stands for what it stands for.

11 JUDGE CHACHKIN: The question is whether Marcus's
12 temporary injunction is mentioned in the --

13 MS. POLIVY: Well, it is.

14 JUDGE CHACHKIN: -- as a basis but not -- well,
15 there is a --

16 MS. POLIVY: I mean, it explains what --

17 JUDGE CHACHKIN: There is some reference to Judge
18 Marcus's rejection.

19 MS. POLIVY: The characterization that Mr. Cole
20 has made is not a correct characterization of what Rainbow
21 had said, but this does address the question. And it is the
22 only page that --

23 JUDGE CHACHKIN: All right, there is no
24 stipulation.

25 What's your question?

1 BY MR. COLE:

2 Q My question, Mr. Rey, is there any reference at
3 all in this document to the order of Judge Marcus, which you
4 testified about this morning, which occurred in a prehearing
5 conference in November of 1990, which precluded Rainbow,
6 your testimony, from proceeding with construction during the
7 period of time November '90 through June 6, 1991?

8 A There is references to that proceeding in this
9 document.

10 Q To the prehearing conference?

11 A Not to the prehearing conference, no.

12 Q To the order, you think, by Judge Marcus?

13 A Specifically the order, I don't find that here.

14 Q So is it your testimony that there is no reference
15 to Judge Marcus's order given, according to your statement,
16 during the prehearing conference in November of 1990 in this
17 document that you have in front of you, which has been
18 identified as Rainbow Exhibit 8?

19 A Not that I have seen reading it over quickly, no.

20 Q In fact, Mr. Rey, isn't it true that Rainbow never
21 advised the Federal Communications Commission at any point
22 from November 1990 to date of any such order by Judge Marcus
23 given during the prehearing conference in November of 1990
24 in that Miami litigation?

25 MS. POLIVY: I am going to object, Your Honor.

1 That suggests that we have a duty to do so.

2 MR. COLE: Your Honor, it does not. I am just
3 asking whether they did it.

4 MR. SILBERMAN: Your Honor, may we speak to that?

5 That's a very valid question. They are raising it
6 for the first time --

7 JUDGE CHACHKIN: I am going to overrule the
8 objection.

9 MR. SILBERMAN: Thank you.

10 JUDGE CHACHKIN: Go ahead.

11 MR. SILBERMAN: Thank you.

12 THE WITNESS: The question, please?

13 BY MR. COLE:

14 Q The question was isn't it true that at no time
15 from November 1990 to date, to today, has Rainbow ever
16 advised the FCC in any pleading or other correspondence or
17 other submissions that it was precluded from construction
18 because of an order issued by Judge Marcus during a
19 prehearing conference in November of 1990 in the Miami
20 litigation?

21 A I don't know if that's true or not.

22 JUDGE CHACHKIN: Well, could you point to any
23 pleading --

24 THE WITNESS: Well --

25 JUDGE CHACHKIN: -- or document filed by Rainbow

1 which makes reference to that order?

2 THE WITNESS: Your Honor, from 1990 to the present
3 there has been a lot of things filed. Nothing comes to
4 mind, but I really don't know. The answer could very well
5 be that there hasn't been, but there might be some out here
6 that I can't recall. I don't know is the answer.

7 JUDGE CHACHKIN: Go ahead, Mr. Cole.

8 MR. COLE: Thank you, Your Honor.

9 JUDGE CHACHKIN: I assume if there is a reference
10 that Rainbow will point it out somewhere else or else I must
11 assume that there --

12 MR. EISEN: Well, there are references.

13 MS. POLIVY: Yes, Your Honor.

14 MR. EISEN: There certainly has been reference to
15 the court case itself.

16 JUDGE CHACHKIN: They are talking about the
17 preliminary -- the prehearing conference.

18 MS. POLIVY: Oh, the prehearing conference?

19 JUDGE CHACHKIN: Yes, and referred to by the
20 witness.

21 Now, is there any reference in any document filed
22 with the Commission that specifically -- to that prehearing
23 conference, and the judge's order at that prehearing
24 conference as a basis for not constructing?

25 MS. POLIVY: Your Honor, as far as I know the

1 order resulting from that prehearing conference was the
2 January 1991 order that is in this record.

3 MR. EISEN: Exhibit 5.

4 MS. POLIVY: And I believe also, Your Honor, that
5 Rainbow never relied on the judge's order as a reason for
6 not construction. Rainbow advised the Commission in its
7 fifth and sixth extension that actual construction has been
8 delayed by a controversy concerning the tower that was the
9 subject of litigation.

10 Rainbow never told the Commission that they were
11 precluded by an order of the Judge. Mr. Rey has testified
12 today as to why the order that is in the joint appendix
13 applied -- how it applied to Rainbow, but that is what's in
14 the record. But Rainbow never told the Commission that they
15 could not construct because they were precluded from doing
16 so by an order directed at that time.

17 JUDGE CHACHKIN: I understand that.

18 We have had testimony of Mr. Rey, and the question
19 is whether any document that reference was made. Apparently
20 the answer is no.

21 Let's go ahead, Mr. Cole.

22 MR. COLE: I'm sorry, Your Honor. I was
23 distracted.

24 Could you say that again, please?

25 JUDGE CHACHKIN: All I said was is that we have

1 had testimony from the witness referring to this hearing and
2 the judge's order, and the fact of the matter is that in
3 document did Rainbow advise the Commission concerning this
4 proceeding.

5 MS. POLIVY: That's not so, Your Honor. The fifth
6 and sixth extensions both reference the tower proceeding.

7 JUDGE CHACHKIN: I am talking about that specific
8 conference, prehearing conference.

9 MR. EISEN: You are talking about the prehearing
10 conference, not the general proceeding.

11 JUDGE CHACHKIN: No, no, not the -- the prehearing
12 conference.

13 MS. POLIVY: Yes, we will stipulate to that.

14 JUDGE CHACHKIN: Okay, that's stipulated to.

15 MR. COLE: Thank you, Your Honor.

16 BY MR. COLE:

17 Q Was there any other action taken in the Miami
18 litigation beyond that which occurred in the prehearing
19 conference in November of 1990 which precluded Rainbow from
20 proceeding with construction during the period November '90
21 through June 6, 1991?

22 A Other than the prehearing conference and
23 subsequent order?

24 Q Yes.

25 A Nothing that I can think of.